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In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 200

TRAYTON L. LATHROP, *Appellant*,

vs.

JOSEPH D. DONOHUE, *Appellee*.

On Appeal from the Supreme Court of Wisconsin

Brief for The State Bar of California Amicus Curiae

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Brief for The State Bar of California Amicus Curiae

This Brief is filed for The State Bar of California, *amicus curiae*, with the written consent of the parties to this proceeding.

INTEREST OF THE STATE BAR OF CALIFORNIA

Appellant herein asserts that the establishment by the State of Wisconsin of an integrated bar, with which all lawyers admitted to practice in the state are required to enroll as members and to which they must pay annual membership dues, is an unconstitutional invasion of the

rights of Appellant under the Fourteenth Amendment of the Constitution of the United States. A decision in favor of Appellant herein might cast doubt upon the constitutional validity of the integrated bars heretofore established and now existing in more than half of the other states of the union. As one of the oldest of these integrated bars, and the largest of all in number of members, The State Bar of California thus has a most direct interest in the outcome of this litigation.

The State Bar of California was created in 1927 by the State Legislature (1927 Calif. Stats. Chap. 34, pp. 38-45, now codified, as amended, Bus. and Prof. Code, Secs. 6000-6154). Its validity has been sustained by the Supreme Court of California against a variety of attacks in a series of decisions commencing with *State Bar v. Superior Court*, 1929, 207 Cal. 323, 278 Pac. 432. It is a public corporation (Bus. and Prof. Code, Sec. 6001). It holds property "for essential public and governmental purposes in the judicial branch of the government" (*id.*, Sec. 6008). Its property and any notes or other evidences of indebtedness it may issue are exempt from taxation (*id.*, Secs. 6008 and 6008.2). The Supreme Court of the State has described the governing board of the State Bar of California as "public officers . . . functioning as an arm or branch of this court" (*Chronicle Pub. Co. v. Superior Court*, 1960, 54 Adv. Cal. 546, 563, 354 P.2d 637, 645; *Herron v. State Bar*, 1931, 212 Cal. 196, 199, 298 Pac. 474, 475).

The establishment of the integrated bar in California has recently been confirmed by an overwhelming majority of the voters of the state. In the November 8, 1960, general election the people approved a constitutional amendment (identified on the ballot as "Proposition 10") which, among other things, added the following to the California Constitution as Section 1c of Article VI:

"Sec. 1c. The State Bar of California is a public corporation with perpetual existence and succession. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a justice or judge of a court of record."

The popular vote on Proposition 10 was: *Yes*, 3,421,376; *No*, 1,191,946 votes—a majority of nearly three to one (*State Bar Reports*, Dec. 1960, p. 1).

The statutory powers and functions of the State Bar of California divide themselves broadly into several categories: (1) Assisting the Supreme Court of California in the matter of admissions to practice law by investigating and examining applicants and certifying those found to be qualified (Bus. and Prof. Code, Secs. 6060-6068); (2) Assisting the Supreme Court in the matter of enforcement of proper conduct on the part of members of the bar by investigating and hearing complaints and administering reprimands or making recommendations to the Supreme Court for suspension or disbarment when cause for such action is found (*id.*, Secs. 6075-6087); (3) Aiding in "such matters as concern the relations of the bar with the public" (*id.*, Sec. 6031); (4) Aiding in "the advancement of the science of jurisprudence" and in "the improvement of the administration of justice" (*id.*, Sec. 6031); and (5) Policing the unauthorized practice of law. A descriptive outline of these activities of the State Bar of California is attached as an appendix. It will be seen that in many respects the activities and functions of the State Bar of California are similar to those of the State Bar of Wisconsin as described by the Supreme Court of that state in the appendix to its opinion herein (Transcript of Record, cited herein as "R.", 77-81).

Since Appellant seeks to strike down integrated bars as *per se* unconstitutional invasions of the freedom of lawyers, a decision such as he asks here might destroy The State Bar of California. As *amicus curiae*, therefore, The State Bar of California supports the position of Appellee.

QUESTION PRESENTED

Do the facts disclosed by this record demonstrate that, in requiring Appellant to be a member of and pay dues to the State Bar as a condition to practicing law in Wisconsin, the Supreme Court of that state has deprived Appellant of "life, liberty, or property, without due process of law" in violation of the Fourteenth Amendment of the United States Constitution?

SUMMARY OF ARGUMENT

This case comes up only on the record made by the allegations of Appellant's complaint. From the facts alleged, no broad questions of freedom of speech are raised. On the record, Appellant has merely been required to enroll with and pay dues to a self-governing organization which is part of the government of the State of Wisconsin. Constitutional questions are limited to consideration of the lawfulness of requiring enrollment and payment of dues.

Reasonable regulation of admission to practice and of the practice of law itself is a permissible object of state action. Moreover, a state has a clear interest in taking affirmative action to improve the administration of justice in its courts.

A state could legitimately regulate the lawyers practicing in its courts through any appropriate public body. Regulation requires enrollment. This public body could constitutionally require all lawyers practicing in the state to enroll with it, and it could spend state funds reasonably to regulate them. Since the enrolled lawyers themselves are uniquely

qualified to administer the required professional standards, and since their interest in maintaining those standards is great, the state may organize its lawyers in a public body and delegate to it the regulation of the practice of law, and require the lawyers themselves to bear the reasonable expense involved.

Methods of improving the administration of justice are best studied before reform is undertaken. States have traditionally called upon readily available legal talent to study possible law reform and to recommend the best course of action. Thus, the State Bar of Wisconsin, which is beneficially interested in improvements in the administration of justice, may legitimately be called upon to study and to support such improvements.

This Court's decision in *Railway Employes' Dep't v. Hanson*, 1956, 351 U.S. 225, forecloses decision for Appellant on the record in this proceeding.

ARGUMENT

I. The Question Is a Very Narrow One.

Much as Appellant would like this Court to examine the entire scope of the potential activities of the State Bar of Wisconsin and then hold it invalid because its activities might some day interfere with his freedom as a lawyer, and much as Appellee and this *amicus curiae* and other integrated bars might like this Court to issue a broad and sweeping opinion upholding integrated bars and everything they do or may do, it is clear that these wishes of the parties and *amici curiae* cannot be fulfilled under the rules which this Court has wisely established and followed in dealing with questions of constitutionality of legislation and other governmental acts. Those rules, as outlined by Mr. Justice Brandeis in his dissenting opinion in *Ashwander v. Tennes-*

see Valley Authority, 1936, 297 U.S. 288, 346-348, and frequently cited (*e.g., Rescue Army v. Municipal Court*, 1947, 331 U.S. 549, 568-569), declare that "The Court will not 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." *Liverpool, N.Y. & P.S.S.Co. v. Emigration Commissioners*" 1885, 113 U.S. 33. Thus, the question here is the very narrow one: does the record here show any actual or threatened unconstitutional invasion of Appellant's freedoms?

Since this case was decided below upon a general demurrer to the complaint (R., 49, 64), the record upon which the question must be decided here consists of the factual allegations of the complaint, assuming them to be true. These allegations show that Appellant was admitted to practice law in Wisconsin in 1948, was a member of a state-wide bar association from then until 1957, became a member in 1957 of the newly-created State Bar of Wisconsin "in order to be able to continue to practice law", paid his dues to the latter organization in 1957 and 1958 without protest and in 1959 with protest, and seeks to recover his 1959 dues as having been collected from him by coercion "in violation of the Fourteenth Amendment" (R., 2-7). The complaint also alleges (R., 5) "That except for the coercion upon attorneys to become members thereof and to financially support it, the State Bar of Wisconsin functions in substantially the same manner and carries on substantially the same work" as did the pre-existing voluntary bar association of which Appellant had been a member.

The complaint does not allege that the State Bar of Wisconsin has interfered with Appellant's freedom of speech, his freedom of assembly, or his freedom of petition, or that it threatens to do so. It does not even allege that the State Bar advocates or does anything to which he has

any personal objection, except that in one single instance (R., 6) the State Bar opposed the adoption of legislation (not identified or even described) which Appellant favored. Even in respect to that one instance, Appellant does not allege that the State Bar interfered in any way with his right or opportunity to express his own views on the proposed legislation nor does he allege that the State Bar purported to speak for him or represented that it had authority to speak for him.

Appellant in his brief contends at some length (pp. 28-30, 65-77) that the State Bar of Wisconsin interferes with a member's freedom of speech in the curious sense that if a member should happen not to agree with some view expressed by the State Bar then the member *might* be forced to speak for himself to avoid being regarded as supporting the expressed view of the State Bar. This, says Appellant, would be an interference with a lawyer's freedom *not* to speak—his freedom to remain silent. Intermingled with this contention in Appellant's brief is the argument that the State Bar's amplified voice might interfere with a dissenter's freedom of speech by drowning out his individual voice.

But Appellant's complaint, like his hypothetical dissenter, is silent upon this subject. He does not allege either in specific terms or in generalities, that the State Bar of Wisconsin has in fact forced him to speak for himself or that it threatens to do so. He does not allege that it has drowned out his individual voice. He does not even allege that he ever raised his voice, or sought to do so.

These contentions of Appellant are based upon hypotheses only, without any factual support in the record. We disagree, of course, with Appellant's contentions, but we do not propose to debate them here because there is no basis

on this record for any ruling upon them. As this Court has said in refusing to review the constitutionality of a statute in absence of evidence that an actual interference was threatened, "A hypothetical threat is not enough" (*United Public Workers v. Mitchell*, 1947, 330 U.S. 75, 90).

Accordingly, we confine ourselves to the only real issue presented by this record, namely, does the record show that Appellant has been deprived of his rights under the Fourteenth Amendment by being required to enroll with and pay dues to the State Bar of Wisconsin as a condition to practicing law in that state?

II. It Is a Permissible Objective of Government for a State to Interest Itself in the Lawyers Who Practice Before Its Courts and in Improvement of the Administration of Justice.

There cannot be any legitimate doubt that a state may interest itself in imposing and maintaining reasonable standards of proficiency and qualification for the practice of law. Lawyers acting "in defense of right and to ward off wrong", occupy such an important position in the organization of our society that the highest moral character is required of them (*Schware v. Board of Bar Examiners*, 1957, 353 U.S. 232, 247-48) (Mr. Justice Frankfurter, concurring). That right triumph over wrong in the courts of a state is necessary to good government and material to the general welfare. The state, then, has a legitimate interest in ensuring that its lawyers meet the requisite standards. "Admission to practice in a State and before its courts necessarily belongs to that State" (*id.*, 248).

The courts of a state are part of the government of the state. Government has a clear interest in ensuring its efficient operation. The efficient operation of the courts is influenced by the organization of the judicial system, the

methods of practice and procedure employed, and the clarity of the laws applied. The validity of reasonable state action to effect improvements in these areas is beyond question.

III. The Valid State Interests in the Lawyers Who Practice Before Its Courts and in Improvement of the Administration of Justice Are Reasonably Exercised by Requiring Registration With and Payment of Dues to an Integrated Bar Which Actively Supports Law Reform.

A state can act only through agents. Therefore, some instrumentality is required to effect the state's legitimate interest in regulating admission to practice and in ensuring that attorneys continue to meet the high standards required. This Court has on occasion upheld the action of public agencies organized to effect analogous state interests in regulating other learned professions (*Douglas v. Noble*, 1923, 261 U.S. 165 (Dentists); *Dent v. West Virginia*, 1889, 129 U.S. 114 (Physicians); *cf., Goldsmith v. United States Board of Tax Appeals*, 1925, 270 U.S. 117) (Practitioners). Thus, both reason and closely analogous precedent sustain the conclusion that a state can regulate the practice of law through a public agency.

Supervision of admission to practice and regulation of the practice itself cost money. Examinations must be prepared, administered, graded. Unauthorized practice of law must be enjoined and violators prosecuted. Unethical conduct must be investigated, and hearings must be held. These activities represent the minimum which a state agency should do to effect the unquestionably legitimate state interest in protecting the public "against the consequences of ignorance and incapacity as well as of deception and fraud" (*Dent v. West Virginia*, 1889, 129 U.S. 114, 122). Even the minimum requires office space, staff, and other facilities incident to running any businesslike operation,

and funds for these purposes must be provided. Since the state interest is valid, the state may properly spend money to effect it.

Supervision of admission to practice and regulation of the practice itself depend upon records of who is entitled to practice within the state. An attorney can be admitted to a roll of practicing attorneys only if there is a roll, and an attorney can be disciplined by removing him from the roll of those entitled to practice only if there is a roll. A reasonable way to compile a roll and to keep it current is to require those eligible to be enrolled to enroll. Thus, a state agency could legitimately require all practicing attorneys to enroll with it.

A state may legitimately call upon all enrolled lawyers as the group uniquely qualified to aid the state in maintaining the standards of the legal profession (*State Bar v. Superior Court*, 1929, 207 Cal. 323, 278 Pac. 432). The state interests involved are matched by those of the members of the profession in maintaining their own standards. To require the group which benefits from legitimate government action to bear the reasonable expense incurred cannot be arbitrary and a denial of due process (*Railway Employes' Dep't v. Hanson*, 1956, 351 U.S. 225, 236-38; *Herron v. State Bar*, 1944, 24 Cal. 2d 53, 64; 147 P.2d 543, 549, *cert. denied*, 323 U.S. 753).

Certainly a state may create a public agency or bureau to assist in regulating the practice of law. Clearly, also, a state may spend its general tax revenues to pay the cost of such an agency. The distribution of a state's powers among its agencies or officers is solely a matter of state concern (*Sweezy v. New Hampshire*, 1957, 354 U.S. 234, 256) (Mr. Justice Frankfurter, concurring). Therefore, a state surely may delegate the regulation of law practice to a state

agency composed of the lawyers themselves, and it may also give them reasonable powers of self-government. It is none the less a state agency because some of the state's authority is delegated to public officers elected by those who are governed. And there can be no legitimate objection to the state's financing the agency by a special license fee upon those who are subject to the agency's jurisdiction rather than by a general tax upon all taxpayers (*Herron v. State Bar*, 1944, 24 Cal. 2d 53, 64, 147 P.2d 543, 549, *cert. denied*, 323 U.S. 753).

Appellant objects, however, that by this process he is coerced into "membership" in the State Bar. Every lawyer who is admitted to practice before any court is *ipso facto* a "member of the bar" of that court. When he applies for admission to practice, he asks to be made a "member of the bar". He continues to be a member of the bar of the court as long as he retains the right to practice before the court, and he ceases to be a member only when he dies, retires from practice, or is disbarred.

The rules of this Court—the Supreme Court of the United States—establish a procedure for admission to practice before the Court, and they speak of one who is admitted as a "member of the bar" of the Court (Rules 5, 6 and 8). One of the several conditions for admission to practice is the filing of a personal statement, another is the taking of an oath or affirmation, and another is the payment of a fee (Rule 5). No better precedent than this could be cited for the proposition that the practice of law in any court may be limited to those who enroll and pay a reasonable fee.

It cannot, therefore, be the mere requirement of "membership" in the bar to which Appellant objects, though some of his argumentation might lead one to think so (*e.g.*, pp. 24-28 of Appellant's Brief). What he really complains about is the fact that the bar of Wisconsin—different from the

bar of this Court—is a self-governing group with definite powers and responsibilities as an agency of the state government, including certain functions in respect to the improvement of the administration of justice in the state.

The legitimate state interest in the organization of its judicial system, the procedures practiced in its courts and the administration of justice requires the state to attempt affirmatively to improve the organization, the procedures and the laws. Improvement often means change. In an area so important as this to the general public welfare, change is best preceded by study, with an ultimate recommendation by the experts best qualified concerning the desirability of alternative courses of action. In the area of judicial organization, practice and procedure, those obviously qualified by education and experience to study and recommend possible improvements, and those whose professional livelihood depends upon proper functioning of this machinery, are the lawyers.

States can use legal experts to study and to recommend. California has done so. In 1926, the California Constitution was amended to create a Judicial Council. The Council's members have traditionally been state judges, and recently the addition of four lawyers was authorized (Calif. Const., Article VI, Sec. 1(a), as amended November 8, 1960). The Council surveys "the condition of business in the several courts with a view to simplifying and improving the administration of justice" and reports "to the Governor and Legislature at the commencement of each regular session with such recommendations as it may deem proper". Also among its duties is the task of submitting "to the Legislature, at each general session thereof, its recommendations with reference to amendments of, or changes in, existing laws relating to practice and procedure" *(ibid.)*.

Moreover, California has established a Law Revision Commission (Gov't Code, Secs. 10300-10351) and a Commission on Uniform State Laws (Gov't Code, Secs. 10400-10433). Lawyers and members of the State Legislature are appointed to these government agencies. Government funds are spent by each agency (Gov't Code, Secs. 10302, 10407). These state governmental units, created to improve the administration of justice, serve as examples of reasonable state use of legal talent as expert advisers in law reform. An integrated bar is another example of a similar use of legal talent to improve the administration of justice while at the same time exercising the state's power to regulate and improve the practice of law. Such reasonable means to achieve a legitimate end must be constitutionally irreproachable. The federal constitution does not compel the states to legislate or to determine matters of public policy in a context in which only the knowledge possessed by those having the power to decide is brought to bear.

We submit that an integrated bar may properly compel the payment of reasonable dues by members to support these legitimate state objects in which by necessity all lawyers are beneficially interested. States may properly use legal talent assembled for a legitimate purpose to improve the administration of justice. An integrated bar whose members are required to contribute to maintain professional standards represents a collection of legal talent legitimately part of the state government. All lawyers are interested in bona fide attempts to improve the administration of justice, and they benefit from them. Therefore, the state can call upon its integrated bar to contribute to attempts to improve the administration of justice, including support for legislation directed toward that end.

IV. On This Record, Requiring Enrollment With and Payment of Dues to the State Bar of Wisconsin Does Not Deprive Appellant of Due Process.

In *Railway Employes' Dep't v. Hanson* 1956, 351 U.S. 225, 236-38, this Court held that compulsory membership in an association and payment to it of periodic dues were constitutional conditions to the retaining of employment in interstate commerce, so long as the funds collected were used for purposes germane to the valid objectives of the association and for the benefit of its members. Regulation of interstate commerce is a valid function of the federal government, just as regulation of the practice of law is a valid function of state government. Regulation of admission, regulation of practice, and study of and support for apparently desirable legislation to improve the administration of justice are all germane to the practice of law and of benefit to all lawyers.

On the record Appellant has made here, this case is the *Hanson* case. None of the "other conditions" against which this Court warned in *Hanson* are present on this record.

CONCLUSION

For the foregoing reasons and for the reasons stated in the brief for Appellee, the decision of the Supreme Court of Wisconsin should be affirmed.

We have been requested by Owen B. Marron, Esq., of Albuquerque, New Mexico to state that the State Bar of New Mexico, an integrated bar established by statute (1953 New Mexico Statutes Sec. 18-1-2), has appointed a Special Committee on the Integrated Bar Case, of which Mr. Marron is Chairman, and that, pursuant to order of the Supreme Court of New Mexico made and filed December 20, 1960, the Committee approves and endorses the foregoing brief on behalf of the State Bar of New Mexico.

Respectfully submitted,

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(Appendix Follows)

Appendix

BRIEF OUTLINE OF THE PRINCIPAL FUNCTIONS AND ACTIVITIES OF THE STATE BAR OF CALIFORNIA

Organization

The State Bar of California is governed by a board consisting of fifteen lawyers who are nominated and elected by the members of the bar by secret ballot (Calif. Bus. and Prof. Code, Secs. 6010, 6011, 6015, 6019; State Bar Rules and Regulations, Article II). The members of the board are elected from nine geographical districts established by the State Legislature (*id.*, Sec. 6012). They serve for three years (*id.*, Sec. 6014), are not re-electable (*id.*, Sec. 6014), and receive no compensation except their expenses (*id.*, Sec. 6028). The board annually elects the officers of the State Bar (*id.*, Secs. 6021-6024).

Admission to Practice

As authorized by statute, the board of governors of the State Bar has established "an examining committee having the power: (a) To examine all applicants for admission to practice law. (b) To administer the requirements for admission to practice. (c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter." (Bus. and Prof. Code, Secs. 6046, 6060-6068).

Pursuant to statutory authority (Bus. and Prof. Code, Sec. 6047), this Committee of Bar Examiners has issued comprehensive rules which incorporate the statutory standards for admission and establish a registration, examination, investigation, and certification procedure for all processing of applicants preliminary to formal admission to practice (West's Annot. Calif. Codes, 1 Bus. and Prof. Code, pp. 624-640). The final decision upon the admission of applicants to the practice of law and the formal "swear-

ing in" of the admittees are Supreme Court prerogatives (Bus. and Prof. Code, Sec. 6064).

Discipline

The review of disciplinary matters forms a very large part of the work of the board of governors and the committees of the State Bar (35 *Journal of The State Bar of California*, hereinafter "*Journal*", 113). Under its governing statute the State Bar has established "a complete . . . method of hearing and determining accusations against members of the State Bar" (Bus. and Prof. Code, Sec. 6075), and with the approval of the Supreme Court the board of governors has formulated and enforces rules of professional conduct for all members of the bar in California (*id.*, Sec. 6076; West's Annot. Calif. Codes, 1 Bus. and Prof. Code, pp. 643-658).

For the receiving, processing, investigating and hearing of complaints against members of the bar some 300 lawyers are appointed and act as preliminary screening committees, assistant secretaries, examiners and hearing committees. All of them serve voluntarily and without compensation. In addition, the disciplinary procedures require the services of investigators, administrative assistants and clerks who are salaried members of the staff of the State Bar. After completion of all preliminary procedures and formal hearings, all questions as to the imposition of discipline come before the board of governors for review. The board may impose a reprimand, either public or private, by its own order, subject to court review (Bus. and Prof. Code, Sec. 6078). As to more severe discipline in the form of suspension or disbarment, the authority of the board is limited to making a recommendation to the Supreme Court for final action by it (*ibid.*). (For a more comprehensive description of the disciplinary procedure see 35 *Journal* 109-115).

Similar procedures are involved in passing upon applications for reinstatement (Rules of Procedure, Rules 43-55, West's Annot. Calif. Codes, 1 Bus. and Prof. Code, pp. 711-717), and in handling references from the Supreme Court with respect to the degree of discipline to be imposed upon lawyers who are convicted of certain crimes (Bus. and Prof. Code, Secs. 6101-6116).

It was with particular reference to the State Bar's responsibilities and functions in disciplinary proceedings that the Supreme Court of California observed some thirty years ago that the officers of the State Bar of California function as "an arm or branch of this court" (*Herron v. State Bar*, 1931, 212 Cal. 196, 199, 298 Pac. 474, 475).

Public Relations

The board of governors of the State Bar, as part of its statutory power to aid in the administration of justice, is authorized to aid in advancing "the professional interests of the members of the State Bar" and to aid in "such matters as concern the relations of the bar with the public". (Bus. and Prof. Code, Sec. 6031) The State Bar engages in an active public information program (28 *Journal* 321). The bar publishes a speaker's manual. It also has prepared a series of newspaper columns, "Law in Action" and "Law in the News", to aid in informing the members of the public of their legal rights. Occasionally pamphlets are issued outlining court procedure.

One of the most important of the activities authorized by these provisions is publication of the bi-monthly *Journal of The State Bar of California* and of the monthly *State Bar Reports*. These publications are mailed to all enrolled members and to some extent to the general public as well.

The *Journal* acquaints the bench and bar with recent or proposed statutory changes and, in some cases, affords a valuable source of the legislative history of measures sponsored by the State Bar. The *Reports* inform the members of current and contemplated activities of the State Bar and its numerous committees.

In addition, to serve the public, the State Bar sponsors the establishment of legal aid services, of which there are at present about thirty in the state (35 *Journal* 436-441, 574). The bar also participates in encouraging development of lawyer reference services (*id.*, 574-5).

Advancement of Jurisprudence and Improvement of the Administration of Justice

The board of governors of the State Bar is, by statute authorized to "aid in all matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice" (Bus. and Prof. Code Sec. 6031).

For this purpose, the State Bar engages in an active program to improve the administration of justice through legislation (See, *e.g.*, 34 *Journal* 511-524). Under its leadership the general corporation law of California was completely revised (8 *Journal* 136). Trial court civil and criminal procedures were also modernized with assistance from the State Bar (8 *Journal* 209; 9 *id.* 307-308). Selection of judges has been an object of state bar legislative activity (8 *Journal* 53-56; 9 *id.*, Part II, 42, 45, 55). The State Bar has studied appellate review and acted to eliminate congestion of appellate calendars (12 *Journal* 249, 16 *id.*, Part II, 3, 26). In addition legislative reform of administrative procedure has been undertaken by the State Bar (14 *Journal*, Part II, 46-55; 16 *id.*, Part II, 32-85; 20 *id.*, 198-202; 22 *id.*, 391-96). Rules on appeal (18 *Journal* 129, 132,

135-48), inferior court organization (20 *Journal* 293-345; 24 *id.*, 235; 25 *id.*, 258-78), and discovery procedures (31 *Journal* 204-231), have been improved with assistance from the State Bar. Recent bar efforts have been concentrated on proposals for constitutional amendments to provide a procedure for removal of judges for cause, to strengthen and enlarge the Judicial Council, to establish a state-wide court administrator, and to authorize the legislature to provide for appellate review of certain inferior court decisions. All of these constitutional amendments were approved by the electorate on November 8, 1960 (*State Bar Reports*, Dec. 1960, page 1).

Presently the State Bar is engaged in studying the proposed Uniform Code of Evidence, the Uniform Commercial Code, the Uniform Arbitration Act, and possible revision of California's eminent domain laws.

Many proposals for state bar study and recommendation originate in its democratically selected Conference of State Bar Delegates. Others come from the numerous committees of the State Bar and from other sources. Most committee reports receive publicity in the *Journal* (34 *Journal* 461-83; 35 *id.* 366-95). The board of governors eventually decides what the formal position of the State Bar will be (34 *Journal* 511-512), and this is widely publicized during the legislative sessions (See, *e.g.*, 32 *Journal* 13-25; 34 *id.* 151-164). In addition to sponsoring its affirmative program, the bar stands ready to aid the Legislature by answering questions about procedural and other matters concerning the administration of justice when bills affecting these areas are considered (35 *Journal* 558, 571-72). Individual bar members are free to challenge the formal program or position of the State Bar (34 *Journal* 461, 476; 35 *id.* 366, 370). Furthermore, it is clear that the bar representatives

are not authorized and do not purport to speak for every member of the bar.

For this purpose of improving the administration of justice, the State Bar, assisted by the University of California, administers a program of continuing education of the bar. In 1960 a total of 16,300 lawyers registered and paid fees for separate courses offered during the year (35 *Journal* 422).

Unauthorized Practice of Law

The State Bar of California maintains a Committee on Unauthorized Practice of Law, established by the board of governors pursuant to its responsibility (Bus. and Prof. Code, Sec. 6030) to enforce the provisions of the code prohibiting the practice of law by persons who are not members of the State Bar (*id.*, Sec. 6125). This committee investigates complaints and issues warnings. Through the activities and negotiations of this committee the limits of permissible activity of banks, title companies, licensed collection agents, insurance company adjusters, and certain motor clubs have been defined (See the current report of the committee, 35 *Journal* 455-458).

Finances

The activities of the State Bar are financed with funds derived from dues paid by the members and examination fees paid by applicants for admission to practice (34 *Journal* 898). The operations of the State Bar therefore represent no burden upon the taxpayers of the State. (*ibid.*) All of the State Bar funds are devoted to carrying out the objectives and responsibilities of the State Bar, and none is used for social purposes, entertainment or other extracurricular activities. (For analyses of State Bar expenditures and budgets see 28 *Journal* 425, 29 *id.* 338, 33 *id.* 486).